

VZCZCXRO0813
PP RUEHLMC
DE RUEHMU #2446/01 3112245
ZNY CCCCC ZZH
P 072245Z NOV 07
FM AMEMBASSY MANAGUA
TO RUEHC/SECSTATE WASHDC PRIORITY 1649
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE PRIORITY
RUMIAAA/CDR USSOUTHCOM MIAMI FL PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
RHEFDIA/DIA WASHINGTON DC PRIORITY
RUEKJCS/JOINT STAFF WASHINGTON DC PRIORITY
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHDC PRIORITY
RHEHNSC/NSC WASHINGTON DC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 MANAGUA 002446

SIPDIS

SIPDIS

E.O. 12958: DECL: 11/06/2017
TAGS: [PGOV](#) [PREL](#) [KCOR](#) [KDEM](#) [NU](#)
SUBJECT: CONSTITUTIONAL REFORM AIMED TO PERPETUATE
STRANGLEHOLD ON DEMOCRACY

Classified By: Ambassador Paul Trivelli, reason 1.4 (b) and (d)

11. (SBU) Summary: Constitutional reform is the hot political topic of the moment in Nicaragua. The Sandinista Front for National Liberation (FSLN) and the Constitutional Liberal Party (PLC) are privately negotiating a major overhaul of the Nicaraguan body politic, focused on creating likely the first true parliamentary system -- including the position of a powerful Prime Minister -- in any Latin American country. The main proponents for these proposed changes are President Daniel Ortega and former president and convicted felon Arnoldo Aleman. These mooted constitutional reforms are little more than a thinly veiled attempt to perpetuate indefinitely the Ortega-Aleman power-sharing "pacto." A November 1 decision by a majority of the PLC National Assembly Deputies appears to have blocked the changes for now, but not the effort of Ortega and Aleman to remain in power beyond 2011, by hook or by crook. End summary.

Key Proposed Amendments

12. (U) According to drafts provided to the press and the Embassy, Aleman and Ortega have agreed upon a range of sweeping changes to the Constitution that would fundamentally alter the governmental structure from one in which power is split between the executive and legislative branches to a quasi-parliamentary system headed by a strong Prime Minister, a weak President, a small and more susceptible National Assembly, and a court system fully subjugated to the authority of the Prime Minister and National Assembly. Constitutional changes require a 60-percent majority vote in two consecutive legislative years.

13. (U) Key amendments made public include:

Article 34 - A convicted criminal whose case is still in the appeals process would retain all legal rights provided by the Constitution. This provision would have the effect of restoring Aleman's full legal rights, including to vote and run for office.

Article 129 - would eliminate the Supreme Electoral Council (CSE) as an independent branch of government and replace it with a new "Electoral Institute" named by the National Assembly.

Article 133 - would: 1) reduce the number of National Assembly Deputies from 90 to 70; 2) extend the term for deputies from five to six years; 3) provide all presidents

and first runners-up since 1984 Deputy slots for life, including Ortega, Violeta Chamorro, Arnoldo Aleman, Enrique Bolanos and Daniel Ortega; 4) eliminate the re-election of Deputies; and, 5) prohibit Deputies from being members of the Prime Minister's Cabinet.

Article 138 - The National Assembly would elect from among the Deputies a Prime Minister, with 60 percent of the vote. The Prime Minister would be confirmed by the President. If a Prime Minister is not selected within 30 days, the President would have the authority to send up to three names to the Assembly for a vote. If none of these is selected, the President would have the authority to dissolve the Assembly and call for elections in sixty days. In the interim, the President would enjoy the full authority to govern the country. Article 138 also would provide for the removal of the Prime Minister on a 60 percent vote in a "no confidence/vota de censura" vote and would provide for life terms for justices of the Supreme Court.

Article 143 - would eliminate the veto power of the President.

Article 144 - divides the executive functions of the government between the President, who would be the head of state and would control the armed forces and police, and the Prime Minister, who would be the head of government.

Article 145 - would eliminate the office of the Vice President.

Article 147 - would require a vote of 50 percent plus one of votes cast to elect a President. This provision would also eliminate the current prohibition on re-election of the sitting President and on holding consecutive terms in office.

Article 148 - would set the term for the President at six years. Once the President leaves office, he or she would become a member of the National Assembly for life and would continue to hold immunity from prosecution.

Other Key Provisions:

- All elections (presidential, National Assembly and municipal) would be held at the same time starting in November 2011.
- Mayors elected in November 2008 would end their term in 2011, when the new rules on elections and terms would come into effect.
- Although Deputies cannot be re-elected, those currently holding seats would be eligible to run again in 2011, but could not be re-elected after that.
- Raise the voting age from sixteen to eighteen.

Aleman as Kingmaker or Overplaying His Hand?

13. (C) PLC Deputy and Chairman of the Justice Committee Jose Pallais has told us privately that the underlying intent of these changes is to allow Ortega to remain in control after his current term of office expires in 2011. Under existing constitutional rules, Ortega would have to wait a whole presidential term (i.e. until 2016) before he would be eligible to stand again as president. Pallais believes Aleman will continue to support Ortega in this effort if he sees sufficient personal benefit, but the move presents dangers for him. According to Pallais, if Aleman succeeds in delivering the approximately 18 votes needed by Ortega to meet the 60-percent majority needed to effect constitutional changes, he will completely alienate all grass-roots Liberals and destroy the PLC. If, however, Aleman promises to support to Ortega but can not deliver, this failure will deliver a mortal blow to his long and dirty political career; effectively, he will have lost what amounts to an internal vote-of-confidence. Backing Ortega is a lose-lose proposition for Aleman, Pallais commented, so Aleman will do so only if potential the reward is high.

14. (C) The rumblings of discontent about constitutional

change within the PLC are significant. In a meeting of the PLC deputies in Montelimar on November 1, a majority of the deputies voted not to support the proposed constitutional changes this year or in 2008 and to seek a public referendum before any constitutional reforms are enacted. Even PLC members who are widely considered close to Aleman, such as PLC First Secretary Wilfredo Navarro and ex-Foreign Minister Francisco Aguirre Sacasa, are publicly voicing their discontent. Maximino Rodriguez, chief of the party in the Assembly, told us that it would be "political suicide" for any deputy to vote for these reforms now, as the base and a growing number of the deputies are very angry that Aleman pre-cooked the changes with Ortega and then presented them to PLC deputies for approval. In Rodriguez's view, the "reform" effort is now "dead" for this legislative term.

COMMENT:

15. (C) One of the ongoing debates surrounding the proposed constitutional changes is whether these reforms are simply a smokescreen by the Ortega-Aleman pacto to divert attention away from other issues, including the GON's poor performance, and to derail opposition unity efforts -- or whether these proposals represent instead a real effort at a lasting power grab that would perpetuate the pacto's hold. As the debate over the amendments continues, we believe the two views are mutually compatible. Indeed, the furor over the changes has succeeded in slowing down efforts by the ALN and PLC to develop a mechanism to jointly participate in the 2008 municipal elections and has served to exacerbate tensions between and within the parties. At the same time, it is clear that Ortega and Aleman are keenly interested in preserving and perpetuating their hold on power and are seeking some manner to institutionalize that hold prior to the municipal elections. If these constitutional changes fail, we can be sure we'll see some other effort by Ortega in the coming weeks and months, with the collusion of Aleman, to remain in power beyond 2011.

TRIVELLI